

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant: Integrity Development and Construction
Owner: Nancy Deprosse & Florence Stern

Date application filed with the Town Clerk: March 18, 2009

Nature of request: Special Permit to create a supplemental apartment in the basement of an existing single family dwelling under Section 5.011 of the Zoning Bylaw

Address: 35 Potwine Lane (Map 22B, Parcel 43, R-O Zoning District)

Legal notice: Published April 8 and April 15, 2009 in the Daily Hampshire Gazette and sent to abutters on April 7, 2009

Board members: Tom Simpson, Eric Beal, Tom Ehrgood

Submissions: The following information was submitted with the application:

- One (1) copy of the memorandum, ZBA FY2009-00031, containing a review of the proposal, prepared by staff;
- One (1) copy of the application, filed with the Town Clerk on March 18, 2009;
- One (1) copy of a Project Description prepared by Integrity Development & Construction, Inc.;
- One (1) copy of a separate Management Plan prepared by Integrity Development & Construction;
- One (1) copy of GIS map showing the subject property (vacant);
- One (1) copy of the proposed Site Plan, prepared by Integrity Development & Construction, last revised on April 15, 2009;
- One (1) copy of existing and proposed floor plans, last revised on April 15, 2009 and elevations prepared by Integrity Development and Construction, last revised April 15, 2009.

For the Public Hearing, the applicant's representative presented mounted boards containing large scale floor plans, a site plan and elevations (submitted with the application) and a color rendering of the existing dwelling.

Site Visit: April 17, 2009

Tom Simpson and Tom Ehrgood met with Peter Jessop and Anna Novey of Integrity Development and Construction at the site. Eric Beal viewed the site separately. The following was observed:

- The existing property situated on the south side of Potwine Lane;
- The existing stone driveway, in the shape of a horseshoe, with a separate entrance and exit;
- The existing one story single family dwelling with attached garage and partially exposed basement;
- The existing front entrance to the house;
- The window on the east side of the front entrance to be converted to the main door to the proposed basement apartment;
- The front, side and rear yards, not yet landscaped;
- The rear entrance from the garage to be used as the second means of egress.

Public Hearing: April 23, 2009

Heidi Flanders, Designer, and Anna Novey, Project Manager, of Integrity Development and Construction and the property owners, Nancy Deprosse and Flo Stern were present. Ms. Flanders and Ms. Novey presented the application and presented color rendered elevations (not submitted as part of the application), floor plans and a site plan as provided with the application.

Ms. Flanders stated the following:

- Integrity Development and Construction is representing the owners of the property;
- They are requesting a Special Permit for a one (1) bedroom supplemental apartment, less than the maximum size allowed, in the basement of the single family dwelling;
- The basement is partially above ground and was partially finished by the previous owner;
- The applicant is proposing to utilize a portion of the basement as a one (1) bedroom apartment and to maintain an unfinished section of the basement;
- They have met with Building Inspections and reviewed the proposed plans which provide the required two (2) means of egress.

Ms. Novey stated the following:

- The basement rooms are unfinished, but have been framed and rough wired;
- The walls creating the apartment area have already been completed, as well as the walls creating two unfinished rooms accessible only to the property owners;
- The only exterior change to the façade will be to change an existing basement window into a door and full stairwell to be used by the tenant as access to of the apartment.

Mr. Simpson confirmed that the basement apartment will have a kitchen, bath, bedroom and living space and will have one (1) entrance in the front and one (1) in the rear.

Ms. Novey stated that the second means of egress will be through the garage and will be located at the rear of the garage.

Mr. Simpson asked if the main residence will remain owner occupied. Ms. Novey confirmed that it would.

Mr. Simpson stated that the Board members saw two (2) curb cuts during the site visit and asked if one will be removed. Ms. Novey stated that the previous owner had started the landscaping on the property and had created the second curb cut. She stated that it was not intended to be used as part of the driveway.

Mr. Beal asked how many parking spaces will be provided.

Ms. Flanders stated that there are two (2) parking spaces available in the garage, two (2) spaces in front of the garage and a hammer-head turnaround area on the side of the driveway that could potentially park one (1) or two (2) more vehicles. She added that there is ample parking for the tenants of the apartment as well as the owners.

Ms. Flanders stated that there will be no changes to the existing lighting fixtures; the existing lighting fixtures do not impact any adjacent properties and the basement door will be lit by the existing fixtures.

Staff requested clarification as to whether the hammer-head turnaround and driveway would be provided in accordance with the site plan submitted.

Ms. Flanders stated that the owner is agreeable to removing the second curb cut and to create the driveway and turnaround in accordance with the site plan.

Mr. Beal MOVED to close the evidentiary portion of the public hearing and Mr. Simpson seconded. The Board VOTED unanimously to close the public hearing.

Mr. Simpson stated that because of the time and the number of other items remaining on the agenda, the Board would not be able to deliberate on a decision at this time.

Mr. Simpson MOVED to continue the public meeting to April 30, 2009 at 7:00 P.M. and Mr. Beal seconded. The Board VOTED unanimously to continue the public meeting to April 30, 2009 at 7:00 P.M.

Public Meeting: April 30, 2009

Heidi Flanders, Designer, of Integrity Development and Construction and the property owner, Flo Stern, were present for the public meeting.

Mr. Simpson asked the Board if there were any philosophical objections to the application. There were none.

The Board spent the remainder of the public meeting discussing findings and conditions.

Findings:

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 and 10.381 – The proposal is suitably located in the neighborhood and is compatible with existing uses in the Zoning District and neighborhood. The Special Permit authorizes the creation of a basement supplemental apartment in the R-O Zoning District pursuant to Section 5.011 of the Zoning Bylaw. The proposal is suitably located in the neighborhood because it does not require any significant exterior changes to the existing single family dwelling and the main portion of the house will be owner occupied.

10.382 and 10.385 – The proposal would not constitute a nuisance and reasonably protects the adjoining premises against detrimental or offensive uses on the site. The proposal does not require any significant exterior changes to the existing single family dwelling and provides two parking spaces per dwelling unit as required in Section 7.000 of the Zoning Bylaw.

10.383 and 10.387 – The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians and the proposal provides convenient and safe vehicular and pedestrian movement within the site and in relation to adjacent streets. The proposal provides two parking spaces per dwelling unit as required by Section 7.000 of the Zoning Bylaw. The permit requires the removal of a second curb cut resulting in a single driveway to reduce traffic movement on and off the property.

10.384 – Adequate and appropriate facilities will be provided for the proper operation of the proposed use. The size of supplemental apartment is in accordance with the maximum allowed in Section 5.01110 of the Zoning Bylaw. One of the dwelling units (the main house) will be occupied by the owner in accordance with Section 5.01112 of the Zoning Bylaw. The supplemental apartment will not be occupied by more than two adults or one family in accordance with Section 5.01113. The proposal includes two parking spaces per dwelling unit in accordance with Section 7.000 of the Zoning Bylaw. All trash and recyclables will be enclosed and stored within the existing garage.

10.386 – The proposal ensures that it is in conformance with the Parking regulations of the town because four parking places are provided, two for each unit as required by Section 7.00 of the Zoning Bylaw.

10.389 – The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables and other wastes. All trash and recyclables will be enclosed and stored in the existing garage in accordance with the approved Management Plan. The property is connected to Town water/sewer.

10.393 – The proposal provides protection of adjacent properties by minimizing the intrusion of lighting. The proposal does not require any new lighting fixtures and the permit requires that any new fixtures be down cast to minimize glare and light spillover onto adjacent properties.

10.395 – The proposal does not create disharmony with respect to the use, scale and architecture of existing buildings in the vicinity. The proposal does not require any exterior changes to the existing single family dwelling. The single family dwelling is similar in size and design to other residences in the neighborhood.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw and it protects the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst. The proposal meets all of the requirements pertaining to the creation of a supplemental apartment. The permit protects the health, safety, convenience and general welfare of the inhabitants of Amherst by providing suitably designed and properly located rental units in accordance with the requirements of the Town of Amherst.

Public Meeting – Zoning Board Decision

Mr. Simpson made a motion to APPROVE the permit, with conditions. Mr. Beal seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit to create a supplemental apartment in the basement of an existing single family dwelling under Section 5.011 of the Zoning Bylaw, as requested in the application filed by Integrity Development and Construction, on the premises of 35 Potwine Lane (Map 22B, Parcel 43, R-O Zoning District), with conditions.

THOMAS SIMPSON

ERIC BEAL

TOM EHRCOOD

FILED THIS _____ day of _____, 2009 at _____,
in the office of the Amherst Town Clerk _____.

TWENTY-DAY APPEAL period expires, _____ 2009.
NOTICE OF DECISION mailed this _____ day of _____, 2009
to the attached list of addresses by _____, for the Board.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2009,
in the Hampshire County Registry of Deeds.

**Town of Amherst
Zoning Board of Appeals**

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit, ZBA FY2009-00031, to create a supplemental apartment in the basement of an existing single family dwelling under Section 5.011 of the Zoning Bylaw, as requested in the application filed by Integrity Development and Construction, on the premises of 35 Potwine Lane (Map 22B, Parcel 43, R-O Zoning District), subject to the following conditions:

1. The supplemental apartment shall be built and used in accordance with the plans prepared by Integrity Development and Construction, last revised on April 15, 2009. Any substantial change to the floor plans shall be submitted to the Zoning Board of Appeals for review and approval at a public meeting.
2. The driveway shall be constructed and the parking shall be utilized as shown on the site plan, prepared by Integrity Development and Construction, last revised on April 15, 2009 and stamped approved by the Zoning Board of Appeals dated April 30, 2009.
3. The owners shall manage the supplemental apartment in accordance with the Management Plan prepared by Integrity Development and Construction and stamped approved by the Zoning Board of Appeals dated April 30, 2009.
4. One of the dwelling units (the main house) shall be owner occupied.
5. The supplemental apartment shall be registered with the Amherst Board of Health as a rental unit.
6. There shall be no more than two (2) unrelated adults or one family, as defined in Section 12.141 of the Zoning Bylaw, allowed to reside in the supplemental apartment.
7. A Reflective street address number sign visible in both directions shall be posted at the street.
8. All exterior lighting fixtures shall be downcast.
9. The name and telephone number of the property owner shall be provided and recorded with Building Inspections, the Board of Health and the Fire Department.
10. This permit is subject to Section 14 of the Zoning Bylaw, Phased Growth. Development authorization is available as of April, 2009.
11. This Special Permit shall expire upon change of ownership.

THOMAS SIMPSON, Chair
Amherst Zoning Board of Appeals

DATE